

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY
AUTHORITY, PUNE**

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.126 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

1. Macrotech Developers Pvt. Ltd.

.... Respondent-Promoter

2. Square Yards Consulting Pvt.Ltd.

.... Respondent-Agent

(LODHA GIARDINO)

**MahaRERA Project Registration No. P52100047587, P52100048326,
P52100050123, P52100051552**

(Unregistered Projects Lodha Riviera & Lodha Springwood)

MahaRERA Real Estate Agent Registration No.A09600037017

Coram: Shri.F.D.Jadhav, Dy.Secretary-Cum-Head

Appearance :- Adv. Smita Sharma for Respondent-Promoter.

Adv. Lakshya Ruhella for Respondent-Agent

ORDER

3rd November, 2023

(Through Video Conferencing)

1. The present case has been initiated by MahaRERA suo-motu against the respondent-promoter and respondent-agent for publishing advertisement of aforesaid registered real estate projects on the website <https://www.squareyards.com/projects-by-lodha-in-pune> wherein the Project Registration numbers and Quick Response (QR) Code have not been included, thereby violating the provisions of Section 3, Section 10(a) of the Real Estate (Regulation And Development) Act, 2016 (hereinafter referred to as ' Act, 2016), Rule 14 of the Maharashtra Real Estate (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website), Rules, 2017 (hereinafter referred to as "Rules, 2017) and the directions issued by the Maharashtra Real Estate Regulatory Authority under MahaRERA Order No. 46B/2023,

dated 21.08.2023 read with MahaRERA Order No. 46/2023, dated 29.05.2023.

2. In pursuance of the aforesaid advertisement and in exercise of the powers delegated by MahaRERA under Section 81 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016") vide No. MahaRERA/Secy/SCN/1142/2023, dated 24.08.2023, show cause notices, dated 13.09.2023 have been issued to both the respondents calling upon them as to why necessary action should not be taken against them for imposing penalty under Section 59 and Section 65 read with MahaRERA Order No.46/2023, dated 29.05.2023, MahaRERA Order No.46-A, dated 25.07.2023 and MahaRERA Order No.46B/2023, dated 21.08.2023.
3. The respondent-promoter has filed its reply, dated 27.09.2023, whereby it is contended that the project "Lodha Riviera" and "Lodha Springwood" are not their project and project "Lodha Giardino" is part of their Kharadi Pune project which is duly registered with MahaRERA under the project numbers as mentioned above. It is further submitted that the images used by the respondent-agent for advertising project Riviera & Springwood is of their project Lodha Belmondo, Pune. The respondent-promoter has further contended that the display of such misleading content is independently exhibited by Square Yards without any authorization and/or permission of the respondent-promoter. It is further contended by the respondent-promoter that it has not engaged or instructed the respondent-agent for advertising the unregistered projects mentioned in the notice-reply and there is no privity of contract between promoter and agent for marking and advertising the unregistered projects mentioned in the subject notice. It is further contended that the respondent-agent is under obligation to perform its function under Section 10 of RERA, any violation thereof, the agent shall be held independently responsible and answerable. It is further contended that the screenshots annexed to the notice under reply are incomplete, the top and below most contents were expurgated and the screenshots were unclear

images of whole advertisements. The date on which such screenshots were taken is also not reflected as the advertisement was not saved as a document, instead screenshots of each page was taken separately, As such, on the basis of vague documents, no charges/breach under the provisions of RERA is attributed towards the respondent-promoter. It is further contended by the respondent-promoter in its reply that issuance of show cause notice to the respondent-promoter for violation of any provision caused by a real estate agent is entirely misplaced and the respondent-agent being an independent entity; any action for misleading advertisement or for violation of any provisions/order/notification of RERA, the agent shall solely be held responsible for the same.

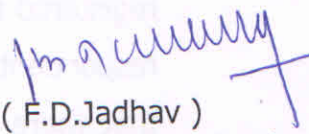
4. The respondent-agent has filed his reply, dated 30.09.2023, wherein it has been contended that "Lodha Riviera" and "Lodha Springwood" are anonymous and do not correspond to any existing projects and the respondent-agent has taken immediate steps to investigate and remove these listings from its platform. The respondent-agent has further contended that "Lodha Giardino" is a registered project.
5. Notice of hearing, dated 31.10.2023 was issued to both the respondents and they were called to attend virtual hearing on 03.11.2023. Adv. Smita Sharma appeared on behalf of respondent-promoter. She has reiterated the contentions raised out by the respondent-promoter in its reply and submitted that the two projects "Lodha Riviera" and "Lodha Springwood" are not existing and "Lodha Giardino" is a part of their registered project 'Kharadi, Pune" and QR Code has been displayed by the respondent-promoter to their said project. She has vehemently argued that there is no any violation of Section 3 of the Act, 2016 as well as MahaRERA Order No.46/2023 and 46A/2023 on the part of the promoter.
6. Adv. Lakshya Ruhella appeared on behalf of respondent-agent. He has also reiterated the contentions raised out by the respondent-agent in its reply. He has submitted that the projects "Lodha Riviera" and "Lodha

Springwood" are anonymous and do not correspond to any existing projects.

7. That so far as the violation of Section 3 of the Act, 2016, the project "Giardino" is a registered project of the respondent-promoter and the project numbers are P52100047587, P52100048326, P52100050123, P52100051552. It is argued by the learned Advocate for promoter that the RERA registration numbers and QR Code has been published by promoter in the advertisement given by him. In view of this, the respondent-promoter cannot be held responsible for violation of Section 3 of the Act, 2016 and therefore, the penalty under Section 59 of the Act, 2016 cannot be invoked in his case.

8. It has come on record that the other two projects "Lodha Riviero" and "Lodha Springwood" are anonymous and not existing and therefore, any penal action for advertisement of such anonymous projects, if taken, would be futile. Since both the above projects are not in existence, the question of registering the said projects with MahaRERA would not arise. Likewise, since the said projects are not in existence and consequently not registered with MahaRERA, the question of allotment of QR Code would also not arise. In such circumstances, it can be said that no violation on the part of respondent-agent also, in the matter has been proved.

9. In view of above, this case stands disposed off without imposing any penalty against both the respondent-promoter as well as respondent-agent.


(F.D.Jadhav)
Dy.Secretary-Cum-Head,
MahaRERA, Pune